

Notice of Allowability

Application No.

09/513,818

Examiner

Marissa Thein

Applicant(s)

DEMSKY ET AL.

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to March 31, 2004 and May 27, 2004 and Examiner Amendment of July 23, 2004.
2. ☒ The allowed claim(s) is/are 1,4,5 and 15-17.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

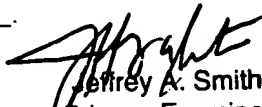
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date July 23, 2004.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Jeffrey A. Smith
Primary Examiner


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 703-305-5246. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Smith can be reached on 703-308-3588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mtot
July 25, 2004



Jeffrey A. Smith
Primary Examiner

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Marilyn Smith Dawkins on July 21, 2004.

The application has been amended as follows:

In The Claims

Claims 2, 9, 11-13 have been canceled.

Claims 16-17 are amended.

In claim 16, pages 7-8, lines 9-12:

Lines 9-12 have been changed to read as follows:

--means responsive to said associating a conditional state selected by the buyer with a displayed first item, wherein the selected conditional state is indicative of the buyer desiring to purchase the first item from the first merchant if a previous committed transaction which bought a previous item from a second merchant can be canceled:--

In claim 17, pages 8-9, lines 10-13:

Lines 10-13 have been changed to read as follows:

-- means responsive to said associating a conditional state selected by the buyer with a displayed first item, wherein the selected conditional state is indicative of the

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buyer desiring to purchase the first item from the first merchant if a previous committed transaction which bought a previous item from a second merchant can be canceled:--.

Examiner's Comments

New corrected drawings are required in this application because Figure 1 contains improper shading and Figures 2 through 6 contains improper hand written text, which may affect clarity when reproduced. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Regarding claim 17, Examiner records the claim is interpreted to recite a computer-executable instructions embedded in a computer-usable medium.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Claim 1

The prior art of record neither anticipates nor fairly and reasonably teach a method of carrying out, over a communication network of interconnecting computers, electronic transactions between a plurality of merchants using at least one server computer and at least one buyer using a client computer, comprising, *inter alia*: sending an electronic communication to the second merchant from the first merchant to cancel the previous committed transaction (see claim 1).

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The most closely applicable prior art of record is referred to in the Office Action mailed on December 31, 2003 as Japan Patent No. 11-154176 to Okada et al. Okada et al. discloses similar functionality to that of the instant invention, however, Okada is silent to sending an electronic communication to the second merchant from the first merchant to cancel the previous committed transaction. Okada discloses a state corresponding to the state of purchasing or canceling goods in a basket (paragraph 16). Furthermore, Okada teaches "data of goods which user reserves till then are displayed on the screen, the data transmitted to basket control by designating purchasing, cancellation or and suspension with respect to each item" (paragraph 47). However, Okada et al. fails to anticipate or fairly and reasonably teach the specificity required in meeting the limitations of the claims regarding the sending of an electronic communication to the second merchant from the first merchant to cancel the previous committed transaction.

Ferguson et al. neither anticipates or fairly and reasonable teaches a method of sending an electronic communication to the second merchant from the first merchant to cancel the previous committed transaction. Moreover, Ferguson's disclosure teaches away from a cancellation of a previous transaction from a first merchant to a second merchant. This is because Ferguson's method is disclosed, instead, to allow the user (buyer) to modify the items selected for purchase during checkout or in review order processing (col. 10, lines 1-2 and col. 10, lines 6-7). The user may modify the selection data while shopping at any merchant (col. 10, lines 4-5). Furthermore, the user may choose to see, edit, and delete items previously selected regardless of which merchant computer the user is currently accessing (col. 2, lines 38-41).

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Newly cited article "Clean air, clear market: making emissions trading work; the role of a computer-assisted auction" discloses a computer-assisted auction where buyers and sellers submit sealed bids and offers, prior to a specified auction date. Participants can submit multiple orders and may also specify constraints to limit the execution of their orders (page 2). An "only if" constraint can be used to ensure that one order is executed only if another is also (page 2). This article fails to anticipate or fairly and reasonably teach a method in sending an electronic communication to the second merchant from the first merchant to cancel the previous committed transaction.

Claim 15 similarly recites a method comprising, *inter alia*, sending an electronic communication to the second merchant from the first merchant to cancel the previous committed transaction. This method is allowable over the prior art of record for reasons consistent with those identified above with respect to claim 1.

Claims 16-17 recite a system and computer program claims, each comprising, *inter alia*, means for sending an electronic communication to the second merchant from the first merchant to cancel the previous committed transaction. These system and computer program claims are allowable over the prior art of record for reasons consistent with those identified above with respect to claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."